

Board	Author	Bill Number
California Integrated Waste Management Board	Wayne	AB 847
Sponsor	Related Bills	Date Amended
Appliance Recycling Centers of America		March 31, 1997

SUMMARY

AB 847 would prohibit any person from crushing for purposes of transportation or recycling, any major appliance until all hazardous materials and hazardous waste has been removed from the appliance. It would also require all hazardous materials and hazardous waste removed from major appliances to be managed in compliance with the hazardous waste control laws.

BACKGROUND

The sponsor of AB 847, Appliance Recycling Centers of America (ARCA), is a nationwide company that provides comprehensive appliance management services -- collection; the removal of all hazardous materials, including CFC/HCFC refrigerant gases, PCBs, mercury and transmission and compressor oils; and proper recycling or disposal of these materials and metals according to local, state, and federal laws and regulations.

ARCA came to California in 1993 and opened facilities in Compton and Oakland, largely due to the state's law requiring removal of hazardous materials from appliances before they are baled or shredded for metals recycling or disposal. ARCA closed their Oakland facility in October 1996 due to lack of business which they feel is attributable to the state's failure to implement or enforce this law at scrap metal recycling centers. ARCA believes that many entities responsible for managing the nearly 5 million unwanted major household appliances generated by consumers in California each year are not properly removing hazardous materials from appliances and managing them as hazardous waste, as required by current law.

ARCA has introduced AB 847 to restore "a level playing field" by placing the requirement to remove hazardous materials from appliances in the Health and Safety Code (HSC), which

Departments That May Be Affected		
Department of Toxic Substances Control, Air Resources Board		
Committee Recommendation	Committee Chair	Date
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governs the Department of Toxic Substances Control (DTSC) and local hazardous waste management agencies. Presently, that requirement exists only in the Public Resources Code (PRC), governing solid waste management. According to ARCA, it is not surprising that state and local hazardous waste agencies, as well as appliance collectors and processors, may be unaware of this requirement, since it is in a code that does not govern their hazardous waste management activities.

The Association of Home Appliance Manufacturers opposes AB 847, believing that ARCA has grossly exaggerated the disposal hazards of discarded appliances. They cite the CIWMB's Metallic Discards Management Plan (August 1993), which states that "existing laws and the current economic climate together provide generally adequate regulatory control and economic incentives that special materials contained in major appliances. . .do not create a large problem in California." They state that the certification, registration, and reporting requirements proposed by AB 847 are cumbersome and unnecessary, with no evidence of widespread violation of current requirements. Further, they state that if compliance is the goal, the focus should be on educational outreach, including a broader distribution of the *Appliance Recycling Guide* developed by the CIWMB.

EXISTING LAW

State Law:

1. Defines "major appliance" as any domestic or commercial device, including, but not limited to, a washing machine, clothes dryer, hot water heater, dehumidifier, conventional oven, microwave oven, stove, refrigerator, freezer, air-conditioner, trash compactor, and residential furnace (PRC Section 42166).
2. Defines "materials which require special handling" as sodium azide canisters in unspent air bags which are determined to be hazardous by federal and state law or regulation, encapsulated polychlorinated biphenyls (PCBs) in major appliances, and chlorofluorocarbons (CFCs) injected in air conditioning/refrigeration units or any other hazardous waste or hazardous material regulated by the Department of Toxic Substances Control (PRC Section 42167).
3. States that on or after January 1, 1994, materials which require special handling shall be removed from major appliances and vehicles in which they are contained prior to crushing for transport or transferring to a baler or shredder for recycling (PRC Section 42175).
4. On or before January 1, 1993, requires the CIWMB to develop and submit a management plan to the Legislature for the removal of materials which require special handling from major appliances and vehicles. The plan is required to specify how the removal of materials which require special handling should be financed and

administered, as well as what, if any, state agency approvals are to be required of those persons removing these materials (PRC Section 42176).

Federal law (Clean Air Act):

1. Requires the recovery and recycling of refrigerant gases (CFCs, hydrochlorofluorocarbons (HCFCs) hydrofluorcarbon (HFCs) and non-CFC replacements) contained in refrigerated appliances such as freezers, air conditioners, heat pumps and water coolers (Clean Air Act, Section 608).

ANALYSIS

AB 847 would:

1. Define "major appliance" in the Health and Safety Code as "any domestic or commercial device, including, but not limited to, a washing machine, clothes dryer, hot water heater, dehumidifier, conventional oven, microwave oven, stove, refrigerator, freezer, air-conditioner, trash compactor, or residential furnace."
2. State in the Health and Safety Code that no person shall crush for purposes of transportation or transfer to a baler or shredder, for recycling, any major appliance until all hazardous materials and hazardous wastes have been removed from the appliance.
3. Require in the Health and Safety Code the Department of Toxic Substances Control (DTSC) or any local health officer or other public officer to conduct inspections and take enforcement action to ensure compliance with the provisions of this bill.
4. State in the Public Resources Code that materials requiring special handling shall be removed from major appliances and from vehicles prior to crushing for transport or transfer to a baler or shredder for recycling *in accordance with applicable hazardous waste laws.*

COMMENTS

Metallic discards at landfills. Very few "metallic discards" go to landfills because the scrap metal has value. The CIWMB estimates that approximately 39.8 million tons of solid waste are disposed of at solid waste facilities. Of that total, approximately .5 percent or 195,639 tons of metallic discards are disposed in California's landfills. They generally go to scrap metal dealers/recyclers if they cannot be refurbished or reused as appliances, to be sold for their scrap metal value. The average price for white goods scrap metal in California is \$36 per ton. The only "enforcement" the CIWMB or its Local Enforcement Agencies (LEAs) would do regarding requirements to remove hazardous waste from appliances would be to

regulate appliances being disposed in landfills without these materials removed. According to CIWMB, there does not appear to be a problem at solid waste facilities because at landfills, contracts are generally in place to remove the hazardous materials and/or the appliances are diverted for disposal to a scrap metal dealer.

Metallic discards at metal recyclers. The problem appears to be at the metal recycler where appliances are allegedly being crushed without removal of the hazardous materials. Once this occurs, it is a violation of hazardous materials/hazardous waste management law, as well as a violation of the federal Clean Air Act (for CFCs). These are matters that the CIWMB has no jurisdiction over. Also, the CIWMB does not presently have any authority to require scrap metal recyclers to change their practices.

Authority. The CIWMB's authority over used appliances is limited to their disposal at solid waste facilities. Specifically, the prohibition on disposal states that after January 1, 1994, no solid waste facility shall accept for disposal any major appliance, vehicle, or other metallic discard which contains enough metal to be economically feasible to salvage as determined by the solid waste facility operator. The CIWMB does not regulate metal recyclers who process the white goods for scrap metal value because they are not handling solid waste. These activities would be considered "de-manufacturing," which the CIWMB decided in 1996 was to be outside of its regulatory tiers (other examples of "de-manufacturing" are couch and mattress recyclers, auto dismantlers, and circuit board recyclers).

Enforcement. The Metallic Discards Act provided no specific mechanism for enforcement of its provisions. Materials requiring special handling (hazardous waste and hazardous material) removed prior to recycling and disposal are covered under the general hazardous waste control laws administered by the DTSC. The ban on disposing used appliances to landfills is covered under laws governing solid waste facilities administered by the CIWMB. The U.S. Environmental Protection Agency (USEPA) is enforcing the provisions within Section 608 of the federal Clean Air Act regarding the processing of air-conditioning and refrigeration equipment. USEPA is performing random inspections, responding to tips, and pursuing potential cases against violators.

It is possible that a regulatory program for metal recyclers could impose costs that make it difficult to sell scrap metal. The average price for white goods scrap metal in California is \$36 per ton. If the cost to regulate white goods is close to, or higher than \$36 per ton, it will no longer be profitable to recycle white goods and the result could be illegal disposal.

Metallic Discards Management Plan. The Metallic Discards Act in the PRC required the submittal of a management plan to the Legislature for the removal of special materials from vehicles and major appliances. This mandate was satisfied by a plan prepared by the CIWMB and a report prepared by Science Applications International Corporation (SAIC) detailing the current activities of the metallic discards processing industry in California in August 1993. The final report of the Metallic Discards Management Plan lists several CIWMB actions taken in response to the recommendations made:

- (a) **LEA Advisory:** The CIWMB developed and sent out a LEA Advisory letter to all LEAs and interested parties which described the regulatory mandates for metallic discards management in California with an attachment titled, "Metallic Discards Q & A," which listed answers to the most commonly asked questions.
- (b) **Appliance Recycling Fact Sheet:** The CIWMB developed an Appliance Recycling Sheet which was sent out to interested parties regarding the subject of metallic discards management in California. It briefly explained the Metallic Discards Act mandate, the landfilling problems of metallic discards, other concerns, and how to reuse, recycle and purchase appliances.
- (c) **Appliance Recycling Guide:** The CIWMB developed this recycling guide to assist those persons in the disposal and recycling sectors who intend to process appliances and the special materials contained within them. This guide is not intended for use by the home repair person, known as the do-it-yourselfer. The guide focuses on the: (1) identification of special materials which require removal, (2) special materials (i.e. refrigerants, polychlorinated biphenyl (PCB), oils and lubricants, and mercury) removal and extraction methods, (3) identification of health and safety hazards in removing and handling special materials, and (4) management of special materials in accordance with state and federal regulations.

Metallic Discards Management Task Force. The CIWMB also convened a Metallic Discards Management Task Force which met twice to discuss and share information regarding the recycling of metallic discards. The Task Force consisted of approximately 12 members representing the regulatory, environmental, industrial, and public sectors. The outcome of the meetings assisted the CIWMB to develop literature on the proper processing of metallic discards, identify appliances of concern, identify the need for training and certification requirements of persons processing metallic discards, address issues regarding special materials, etc.

Metallic Discards monitoring. The CIWMB also performed non-regulatory monitoring for a six month period regarding the effectiveness of the Metallic Discards Act. A survey of both Northern and Southern California appliances repair shops, processing facilities, metal scrap facilities, and local governments was performed. The results showed that since the Metallic Discards Act went into effect, a few processing facilities, metal scrap facilities, and local governments have seen an increase in appliance salvaging/recycling while others have seen no increase.

LEGISLATIVE HISTORY

AB 847 was introduced on February 27, 1997. It passed the Assembly Environmental Safety and Toxic Materials Committee (6-0) on April 1, 1997, passed the Assembly Appropriations Committee (11-5) on April 9, 1997, and has been referred to the Assembly Floor.

Support: Appliance Recycling Centers of America, Inc. (ARCA) (sponsor)
 Planning and Conservation League
 Californians Against Waste
 Sierra Club

Opposition: Association of Home Appliance Manufacturers

FISCAL AND ECONOMIC IMPACT

AB 847 would have no fiscal impact on the CIWMB.